

UNITED STATES OF AMERICA  
UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

JERMAH BROWN,	)	
	)	
Petitioner,	)	Case No. 1:06-cv-879
	)	
v.	)	Honorable Wendell A. Miles
	)	
MARY BERGHUIS,	)	
	)	
Respondent.	)	
	)	

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**JUDGMENT**

In accordance with the Opinion entered this day:

IT IS ORDERED that Petitioner's application for habeas corpus be dismissed without prejudice. Petitioner may re-file his application, within the limitations period, after exhausting his available state-court remedies as to all claims. In the alternative, Petitioner may file a new petition at any time before the expiration of the limitations period raising only his exhausted claim.

IT IS FURTHER ORDERED that a certificate of appealability is DENIED because a reasonable jurist could not conclude either that the district court erred in dismissing the petition for failure to exhaust or that the Petitioner should be allowed to proceed further.

*Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

Dated: February 2, 2007

/s/ Wendell A. Miles

Wendell A. Miles

Senior United States District Judge